



Commonwealth  
of Massachusetts

## *OCPF Online*

*www.mass.gov/ocpf*

*Office of Campaign and Political Finance*

*One Ashburton Place, Room 411*

*Boston, MA 02108*

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### Advisory Opinion

June 28, 2005

AO-05-08

Allen Bondeson, Chairman  
Insurance Committee  
Massachusetts Organization of State Engineers & Scientists  
90 North Washington Street, 3<sup>rd</sup> Floor  
Boston, MA 02114

Re: Receipt of commissions from insurance company

Dear Mr. Bondeson:

This letter is in response to your request for an opinion regarding whether the campaign finance law would allow the Massachusetts Organization of State Engineers & Scientists (MOSES) to make political contributions from funds containing commissions from insurance companies that provide discounted home and auto insurance to members of MOSES.

You have stated that the commission is 2% on each premium paid by an enrolled member. There are approximately three thousand members in MOSES. A total of twenty-eight policies were written in 2004. From these policies, MOSES earned a total of \$541 in commissions. MOSES has not yet cashed the check from the insurance companies.

QUESTION: May MOSES accept these funds from the insurance companies where MOSES makes political contributions to candidates?

ANSWER: No, since the campaign finance law prohibits even indirect use of corporate funds to support or oppose candidates.

Section 8 states that a business corporation may not “directly or indirectly give, pay, expend or contribute . . . any money or other valuable thing for the purposes of aiding, promoting or preventing the nomination or election of any person to public office . . .” *See Op. Atty. Gen.*, November 6, 1980 (stating that “[I]f a corporation cannot directly provide facilities to a candidate or committee by virtue of the statute, it may not do so indirectly through the associations to which it belongs”).

The prohibition against corporate contributions extends to non-profit corporations and other organizations whose dues-paying members are, or which receive funds from, business corporations. *See FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) (“MCFL”). In *MCFL*, the Supreme Court concluded that a federal law prohibiting corporate contributions to candidates could not be applied to MCFL. The court held that as applied to MCFL the statute would violate First Amendment guaranties of freedom of speech because MCFL was (a) expressly created to promote political ideas and not engaged in business activities, (b) had no shareholders with a claim on the corporation’s assets and (c) *was not established by and did not accept contributions from business corporations*. The court stated that a “policy not to accept contributions from [business corporations] . . . prevents such corporations from serving as conduits for the type of direct spending that creates a threat to the political marketplace.” 479 U.S. at 264.

Consistent with *MCFL* and the 1980 Attorney General Opinion cited above, the office interprets Section 8 as strictly prohibiting organizations that receive funds from business or professional corporations from directly or indirectly contributing to candidates. *See, e.g.*, AO-98-18 (stating that an organization receiving corporate money could not provide administrative support to a PAC even if the organization segregated corporate funds from other funds), and AO-00-05 (an issues advocacy organization which receives some funding from business corporations may not distribute a newsletter beyond the scope of the organization’s membership).

If MOSES receives funds from business or professional corporations, MOSES may not, without violating Section 8, make expenditures to support or oppose candidates. Therefore, if MOSES intends to continue making contributions to candidates, it may not accept commission checks from insurance companies.

This opinion is issued within the context of the Massachusetts campaign finance law and is provided solely on the basis of representations in your letter and in your conversations with OCPF staff. Please contact us if you have further questions.

Sincerely,

A handwritten signature in cursive script that reads "Michael J. Sullivan". The signature is written in dark ink and is positioned to the left of a vertical line.

Michael J. Sullivan  
Director